

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 7691 of 2007(N)

PETITIONER:

PEETHAMBARAN, S/O.KOCHAKKAN,
KALAPURACKAL HOUSE, VADAKKEKARA,
IRINJALAKUDA.

BY ADV. SRI.M.A.MANHU
SRI.M.A.FAYAZ

RESPONDENTS:

1. JAYAPRAKASH, S/O.SUBRAMANINAN,
VARIYATHRA HOUSE, PAZHAMPALA ROAD,
ALATHUR PALAKKAD.
2. VIGILANCE COURT,
THRISSUR.
3. STATE OF KERALA,
REPRESENTED BY SECRETARY,
GOVERNMENT SECRETARY,
THIRUVANANTHAPURAM.
4. V.G.BIJU, VAIKKATTIL HOUSE,
P.O.PUTHUR, THRISSUR.

R1 BY ADV. SRI.MILLU DANDAPANI
R2 & 3 BY GOVT. PLEADER SRI. S.U. NAZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23/05/2007, ALONG WITH WPC NO. 7692 OF 2007 WPC NO. 7693
OF 2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R. BASANT, J.

W.P.C.Nos. 7691, 7692 &
7693 of 2007 N

Dated this the 23rd day of May, 2007

JUDGMENT

The petitioners are accused 1, 3 and 4 in a complaint filed by the first respondent before the Enquiry Commissioner and Special Judge, Trichur. The complaint was filed by the first respondent making allegations against five accused persons, including the petitioners herein. The learned Special Judge, on receipt of the complaint, forwarded the same to the Director, Vigilance and Anti Corruption Bureau, Trivandrum for enquiry and report. The enquiry has not commenced. The report has not been filed. But the petitioners have rushed to this Court with a prayer that the proceedings initiated against them by the first respondent may be quashed.

2. The report of the Enquiry Commissioner and Special Judge was called for. The learned Judge has forwarded the complaint received and the order passed by him in C.M.P. 1077 OF 2006. It reads as follows:

“Heard. I am satisfied that the petitioner has made out a prima facie case to proceed against the respondents. Hence, this complaint is forwarded to the Director, Vigilance and Anti-Corruption Bureau, Thiruvananthapuram for enquiry and report.”

3. The learned Prosecutor was directed to take instructions. The learned Prosecutor submits that while it is true that the order in C.M.P. 1077 of 2006 has been communicated to the Director, Vigilance and Anti Corruption Bureau, the enquiry has not commenced nor has any crime been registered. In accordance with law, the complaint shall be considered and only if there is an allegation of substance of the petitioners having committed any offence, will appropriate further action be taken. It is premature for the petitioners to approach this Court at this stage. The learned Special Judge has carefully insisted that the complaint is not being forwarded for registration of a crime and investigation. The complaint has been forwarded only “for enquiry and report.”

4. The mere fact that such a complaint has been forwarded for enquiry and report cannot and should not normally expose the petitioners to any adverse consequences. At the same time, I am not persuaded to agree that the petitioners are entitled for any order to stop the enquiry as directed by the learned Special Judge. I have no reason to assume that the mere pendency of the petition forwarded to the Director, Vigilance and Anti Corruption Bureau, Trivandrum by the learned Special Judge would in any way affect the petitioners at this stage. No directions appear to be necessary in these circumstances.

5. To sum up, I do not find any reason to justify the invocation of the extra ordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C. in favour of the petitioners. The satisfaction referred to in the order extracted above can only refer to the satisfaction of the need to direct the police to conduct an enquiry and report and not to any complicity of the petitioners in respect of the allegations raised.

6. These writ petitions are accordingly dismissed, subject to the above observations.

(R. BASANT)
Judge

tm